IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION No. 857 (M/S) OF 2006

(Stay Application No.8334 of 2006)

Niranjan Prasad S/o late Shri Banwari Lal
R/o Kamra No.8 Bhiwani Wala Ashram,
91 Hardwar Road Rishikesh
District Dehradun. .....Petitioner

Versus

1. Conciliation Officer/ Assistant Labour Commissioner, Rishikesh, Dehradun.
2. Deputy Labour Commissioner Garhwal Mandal 298 Himgiri Vihar Ajabapur, Dehradun.
3. Additional Labour Commissioner Uttaranchal, 298 Himgiri Vihar, Dehradun.
4. State of Uttaranchal through Labour Secretary Uttaranchal, Dehradun.
5. Labour Commissioner, Uttaranchal Bhotiya Paraw Haldwani, Nainital.

21.07.2006

Sri M.C. Pant, Counsel for the petitioner
Standing Counsel for the respondent no.1 to 5.

Hon'ble Rajesh Tandon, J.

Heard Sri M.C. Pant, Counsel for the petitioner and Standing Counsel for the respondent no.1 to 5.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the orders dated 03.05.2003 & 31.05.2006.

Briefly stated, the petitioner was employed in Bhiwani wala Ashram on the post of Chaukidar from 04.04.1979 and he was dismissed from the service on 18.05.2001.

According to the petitioner, he filed an application under section 2-A of Industrial Disputes Act, 1947 before the respondent no.1 on 15.09.2001 for the conciliation. Against the aforesaid application, the employer moved his objection denying the prayer of the petitioner. The respondent no. 2 Deputy Labour Commissioner Garhwal region, Dehradun dismissed the application of the petitioner vide order dated 03.05.2003.

On 12.12.2003, the owner of the Bhiwaniwala Ashram, 91Hardwar Road, Rishikesh issued a legal notice in favour of the petitioner stating that he is legally appointed Chaukidar of the Ashram and the action taken by the Manager of the Ashram is illegal and without authority of law.

Aggrieved by the order dated 03.05.2003, petitioner filed suit being C.P. Suit no.1/2001 before the Labour Commissioner, Uttaranchal, Haldwani on 28.07.2003, the same was dismissed vide order dated 24.12.2005.

Petitioner has submitted that he is workman/Chaukidar of the employer and the dispute relates to the back wages as well as dismissal for the petitioner from service, therefore the matter requires to be sent to Labour Court, who is the competent authority to decide the above matter in accordance with law.

In view of above, liberty is given to the petitioner to file an application within a period of two weeks from the date of presenting of the certified copy of this order before the Dy. Labour Commissioner respondent no.2 who has passed the impugned order dated 24.12.2005. If such an application is filed, he shall dispose it of in accordance with law after hearing the petitioner within a period of one month.

Subject to the above, writ petition is disposed of. No order as to costs.

21.07.2006 **(Rajesh Tandon, J.)**

Jain